



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 230327-0085]

RIN 0648-BM14

Fisheries Off West Coast States; Pelagic Species Fisheries; Amendment 20 to the Coastal Pelagic Species Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would implement two minor changes to Federal regulations, prompted by the proposed Amendment 20 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). Amendment 20 would remove management category terminology from use in the FMP, but not to revise the manner in which the CPS stocks are managed. The Pacific Fishery Management Council (Council) recommended Amendment 20 for clarity and consistency with other Council FMPs. Specifically, this proposed rule would remove the definition for “Actively Managed Species” and a reference to “monitored stocks” from Federal regulations. Because this action does not change the manner in which CPS stocks are managed, this action is administrative in nature.

DATES: Comments on the proposed rule must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2023-0036, by the following method:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2023-0036 in the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, *etc.*) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Taylor Debevec at (562) 980-4066 or taylor.debevec@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The CPS FMP implemented the use of Management Categories with Amendment 8. Originally, the management categories included “Active” (or Actively) and “Monitored.” With Amendment 12 and the incorporation of krill into the CPS FMP, “Prohibited Harvest” was added as a management category. The primary function of the “Active” and “Monitored” management categories was to effectively and efficiently direct available agency and Council resources, in recognition that not all stocks require as intensive management as others, *e.g.*, frequency of assessments and changes to harvest levels. Stocks that supported intensive fisheries typically fell in the “Active” management category, meaning they were assessed on a regular schedule with associated regular

updates to harvest specifications. In contrast, stocks that were less intensively fished were “Monitored” and utilized long-term conservative harvest strategies deemed sufficient for their conservation and management. The category designations did not relieve stocks from the requirements of Magnuson-Stevens Fishery Conservation and Management Act (MSA) or National Standard 1 guidelines. Nor did they characterize the type of stock assessment or scientific information available to inform assessments, or strictly prescribe the frequency of assessment or harvest policy specification. Additionally, the FMP allowed for stocks to be moved from the “Monitored” category to the “Active” category if deemed necessary for their conservation and management.

In November 2018, the Council initiated an effort to address a perceived lack of clarity regarding the meaning and use of these terms in the FMP and to promote consistency with other Council FMPs. The Council directed its CPS Management Team to explore ways to remove the naming distinction of management categories, while maintaining existing stock management. The Council considered the issue at its June 2019 and November 2021 meetings, with final action taking place at its April 2022 meeting. The proposed Amendment 20 would remove management category terms from the FMP and incorporate additional modifications in place of those terms to ensure flow and readability of the FMP. “Prohibited Harvest Species” would remain defined (krill), but references to it being a management category would be removed.

To align with the proposed Amendment, NMFS is proposing this rule to remove the management category terms from Federal regulations, and make some small additional modifications in place of where those terms were removed to ensure flow and readability of the regulations. This proposed rule would remove the two places in Federal CPS regulations that reference these management category terms by: removing “Actively Managed Species” from definitions in 50 CFR 660.502, and removing a reference to

“monitored stocks” from 50 CFR 660.511(k). These regulatory changes are administrative in nature and do not change management of CPS stocks.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, the Assistant Administrator, NMFS, has determined that this proposed rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, for the following reasons.

For Regulatory Flexibility Act (RFA) purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System (NAICS) code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide.

The small entities that would be affected by the proposed action are the vessels that harvest coastal pelagic species as part of the West Coast CPS finfish fleet and are all considered small businesses under the above size standards. Currently, there are 55 vessels permitted in the Federal CPS limited entry fishery. For these vessels that catch CPS, the average annual per vessel revenue has not exceeded \$1.25 million in the last 5

years. The individual vessel revenue for these vessels is well below the threshold level of \$11 million; therefore, all of these vessels are considered small businesses under the RFA. Because each affected vessel is a small business, this proposed rule is considered to equally affect all of these small entities in the same manner.

This proposed action removes terms that categorize CPS stocks, but the management of CPS stocks remains unchanged. Therefore, this action is not expected to have significant direct or indirect socioeconomic impacts because the proposed action is administrative.

Based on the disproportionality and profitability analysis above, the proposed action, if adopted, will not have a significant economic impact on a substantial number of small entities. As a result, an Initial Regulatory Flexibility Analysis is not required, and none has been prepared.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indians-lands, Recreation and recreation areas, Reporting and record keeping requirements, Treaties.

Dated: March 31, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

PART 660--FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

§ 660.502 [Amended]

2. In § 660.502, remove the definition for “Actively Managed Species”.

3. In § 660.511, revise paragraph (k) to read as follows:

§ 660.511 Catch restrictions.

* * * * *

(k) The following annual catch limit applies to fishing for Northern Anchovy
(Central Subpopulation): 25,000 mt.

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